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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,960	12/22/2000	Michael Strobel	02581-P0350A	8504

7590 01/10/2006

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EXAMINER

DOSTER GREENE, DINNATIA JO

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	09/745,960	STROBEL ET AL.	
	Examiner	Art Unit	
	Dinnatia Doster-Greene	3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-32, 35-42 and 45 is/are rejected.
- 7) ☒ Claim(s) 33, 34, 43 and 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detail Action</u> . |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 25-45 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claim 26 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 25. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

Art Unit: 3743

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 25-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huebner (U.S. Patent No. 5,456,685) in view of Ross et al. (U.S. Patent No. 5,470,334). Huebner discloses an interference screw (12) for anchoring a transplant (60) to a bone (56, 62). The screw (12) includes a recess (68) located therein. Huebner also discloses a tool ("driver"; col. 4, line 15) for inserting the screw into an opening in the bone. In Figs. 3-5, the screw body (12) contacts the transplant (60) positioned between the screw body and a side of the opening in the bone to anchor the transplant to the bone. Thus, Huebner discloses the claimed invention with the exception of at least one extending groove running substantially the length of the screw body, a biodegradable material and the specifics of the drive tool. However, Ross, which also relates to an interference screw including a recess (50), teaches that it is known to design a biodegradable screw including at least one axially extending groove (36). Furthermore, Ross discloses a driver (60) that corresponds to recess (50) in the screw head for centering the tool with respect to the screw body during insertion. Therefore, it would have been obvious to one skilled in the art to incorporate the drive tool of Ross into the interference screw of Huebner for the purpose of providing a drive tool which is capable of withstanding high driving forces as taught by (Ross, cols. 1-2).

As shown in Fig. 5 of Ross, the drive element (60) extends substantially the length of the at least one axially extending groove (36).

Fig. 5 of Ross also discloses that the depth of the at least one axially extending groove is such that the at least one drive element of the tool lies within the at least one axially extending groove and does not extend beyond the outer periphery of the screw body.

Figs. 2 and 5 of Ross further teach that the depth of the at least one axially extending groove is such that the at least one drive element of the tool is housed within the at least one axially extending groove without extending radially beyond a threading of the shaft.

The recess (68) of Huebner and the recess (50) of Ross, both, are configured as a channel completely passing through the screw body.

As shown in Fig. 2 of Ross, the at least one axially extending groove opens axially at the screw head.

Ross further discloses a bridge (Fig. 4) for bridging the at least one axially extending groove in a circumferential direction.

Huebner teaches that the transplant may be selected from the group consisting of: a tendon, a ligament and the combinations thereof.

Ross further discloses at least three axially extending grooves substantially the length of the screw body.

Allowable Subject Matter

Claims 33-34 and 43-44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

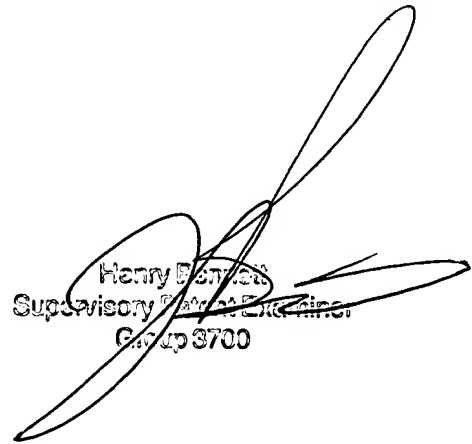
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinnatia Doster-Greene whose telephone number is 571-272-7143. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3743

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ddg



Henry B. Smith
Supervisory Patent Examiner
Group 3700